APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,539	12/29/1999	BALWINDER S. SAMRA	17207-00003	2363

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EXAMINER
BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _30 April 2004_.

2a)☐ This action is **FINAL**.　　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-9,11 and 13-26_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-9,11 and 13-26_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

March 5, 2004 has been entered.

2.   Claims 1 and 11 have been amended. Claims 10 and 12 have been canceled.

Claims 1-9, 11, and 13-26 are pending.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1-9, 11, and 13-26 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

Claims 1 and 11 recite the limitation "the target group" in line 18 and lines 18-19,

respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5.   Claims 1-9, 11, 13-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 2002/0072951), in view of Lazarus et al (USPN 6,430,539), in further view of Thearling (USPN 6,240,411).

As per claim 1, Lee et al disclose a method of analyzing the success of a marketing campaign by using a targeting engine, campaign results and an original campaign database (campaign analysis including determining the effectiveness of a campaign, see ¶ 0029 and 0033), comprising

embedding within the targeting engine a plurality of analytical models (marketing analyses models, see ¶ 0030) including marketing (customer/product analyses, see ¶ 0031 and 0032) and risk models (targeting most valuable customers, i.e., ones of low risk and high return, see ¶ 0039);

deriving a list of user defined dimensions (users are able to analyze and present data in a variety of ways based upon which pre-built marketing analyses are used, see ¶ 0029) for the customers included in the target group, the user defined dimensions include marketing defined dimensions (customer/product analysis) and risk defined dimensions (customer profitability and value), and

profiling results of the marketing campaign against the marketing defined dimensions and the risk defined dimensions (campaign analysis, see ¶ 0033).

Lee does not explicitly disclose combining the models embedded within the targeting engine to define an initial customer group including a list of customers satisfying each of the combined models and rank ordered by projected profitability wherein projected profitability is based on at least one of a probable response by a customer to the marketing campaign, attrition of the customer, and risk associated with the customer, the list includes a high profit end, a moderate profit section, and a low profit end, the high profit end including customers having a highest projected profitability, the low profit end including customers having a lowest projected profitability, the moderate profit section including a profitability baseline, wherein the determined sequential order maximizes a number of customers included between the high profit end and the profitability baseline, the target group includes the customers included between the high profit end of the list and the profitability baseline, the profitability baseline defines marginal returns for a customer equal to zero. Lazarus et al discloses consumer accounts ranked by predicted spending, based upon financial profiling (i.e., marketing campaign), wherein the ranked accounts are divided into bins. The highest ranked consumers are in one bin, whereas the lowest ranked consumers would be bin N. The lift for the bin is the average actual spending by accounts in the bin divided by a baseline spending value, wherein the cumulative lift for bin N is 1. The cumulative lift is used to identify the group of accounts which are to be targeted (column 34, lines 65-67 and column 35, lines 1-31).

Neither Lee et al nor Lazarus et al explicitly disclose assigning a score to the results of the marketing campaign based on the marketing defined dimensions and risk defined dimensions. Thearling discloses the campaign manager automatically selecting the order of the models for analysis (see figure 11 and column 13, lines 38-41), and the scoring the model used to analyze the campaign, thereby scoring the campaign (i.e., likelihood a customer will provide repeat business, see column 9, lines 48-52).

Lee et al, Lazarus et al, and Thearling are concerned with effective campaign management, consumer analysis and segmentation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include combining the models via ordered customer lists, assigning a score to the campaign analysis in Lee et al, as seen in Lazarus, Thearling, respectfully, thus allowing analysts to determine the success of the marketing campaign via comparison to other campaign scores and/or a scoring baseline, thereby increasing the analytical robustness of the method.

As per claim 2, Lee et al disclose comparing accounts targeted by the marketing campaign against those accounts not targeted (segmented targets, see ¶ 0078).

As per claim 3, Lee et al disclose selecting the differences between targeted and non-targeted accounts (targets based on pre-configured queries, see ¶ 0078).

As per claim 4, Lee et al disclose ensuring that the marketing campaign is reaching a targeted population base (tailor campaigns to better target the most valuable customer, see ¶ 0039).

As per claim 5, Lee et al disclose capturing graphically, clusters of data built using statistical procedures (chart, see ¶ 0053).

As per claim 6, Lee et al disclose using the user defined dimensions and the campaign results to construct a gains chart (see ¶ 0053). According to Applicant's specification, gain charts simply track the performance of the models used over marketing campaigns. The chart in Lee et al provides a visual representation of the data (i.e., analyses of the campaigns).

As per claim 7, Lee et al do not explicitly disclose rank ordering user defined segments. Thearling discloses selecting the order of models for selection (see column 13, lines 35-41). Both Lee et al and Thearling are concerned with effective campaign management and analysis, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include rank ordering the segments in the Lee et al, as seen in Thearling, thus allowing the user to chose segments more likely to produce the desired campaign response, thereby increasing the accuracy of the Lee et al method.

As per claims 8 and 9, Lee et al do not explicitly disclose showing where the model works best, and where the model performance needs to be addressed. Thearling discloses allowing a user to specify a model to use in campaign analysis (i.e., where the model works best, see column 10, lines 20-25) and evaluation of model compute time (i.e., model performance, see column 11, lines 26-32). Both Lee et al and Thearling are concerned with effective campaign management and analysis, therefore it would have been obvious to one having ordinary skill in the art

at the time the invention was made to include model performance analysis in Lee et al, as seen in Thearling, thereby effectively determining the robustness of a particular analysis.

As per claim 21, Lee et al disclose comparing the results of the marketing campaign against the marketing defined dimensions and the risk defined dimensions, and using the targeting engine to generate gains charts based on the comparison (see ¶ 0053). According to Applicant's specification, gain charts simply track the performance of the models used over marketing campaigns. The chart in Lee et al provides a visual representation of the data (i.e., analyses of the campaigns).

Claims 11, 13-20, and 24 are rejected based upon the rejections of claims 1-9, and 21 respectively, since they are the system claims corresponding to the method claims.

6.   Claims 22, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US 2002/0072951), in view of Thearling (USPN 6,240,411), as applied to claims 1 and 11 above.

As per claims 22 and 23, Lee et al does not disclose the marketing models including a net present value/profitability model, a prospect pool model, a net conversion model, an attrition model, a response model, a revolver model, a balance transfer model, and a reactivation model; and the risk models including a payment behavior prediction model, a delinquency model, a bad debt model, a fraud detection model, a bankruptcy model, and a hit and run model. The Examiner previously

submitted Lazarus et al as discloses predicting consumer financial behavior, including an account statistics table for ranking prospects (see column 35, lines 49-55) and a credit risk score (see table 2). Applicant has amended to include all the marketing and risk models to be embedded within the targeting engine. The Examiner takes Official Notice that all of these types of marketing and risk models are variations that could be implemented in any marketing analysis system. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include specific marketing and risk models in Lee et al thereby effectively determining the specific consumer attributes of interest.

Claims 25 and 26 are rejected based upon the rejections of claims 22 and 23 respectively, since they are the system claims corresponding to the method claims.

Response to Arguments

7.   In the Remarks, with respect to claims 1 and 11, Applicant argues that neither Lee nor Thearling disclose or suggest using the targeting engine to determine a sequential order for combining the models; combining the models embedded within the targeting engine in the determined sequential order to define an initial customer group including a list of customers satisfying each of the combined models and rank ordered by projected profitability wherein projected profitability is based on at least one of a probable response by a customer to the marketing campaign, attrition of the customer, and risk associated with the customer. Applicant also argues that neither Lee nor Thearling disclose or suggest initial customer group list, including a high

profit end, a moderate profit section, and a low profit end, the high profit end including customers having a highest projected profitability, the low profit end including customers having a lowest projected profitability, the moderate profit section including a profitability baseline, wherein the determined sequential order maximizes a number of customers included between the high profit end and the profitability baseline, the target group includes the customers included between the high profit end of the list and the profitability baseline. The Examiner submits Lazarus et al as disclosing these features, as seen in the above rejection.

Applicant also argues that neither Lee nor Thearling disclose or suggest deriving a list of user defined dimensions for the customers included in the target group, the user defined dimensions include marketing defined dimensions and risk defined dimensions; profiling results of the marketing campaign against the marketing defined dimensions and the risk defined dimensions. The Examiner disagrees with Applicant's assertion and submits that, as seen in the above rejection, Lee discloses campaign analysis including determining the effectiveness of a campaign (¶ 0029 and 0033). Lee includes marketing analyses models (¶ 0030), including customer analyses that target the most valuable customers (i.e., ones of low risk and high return, ¶ 0039). Further, users of the Lee system are able to analyze and present data in a variety of ways based upon which pre-built marketing analyses are used (¶ 0029). Although the term "model" is not explicitly stated in Lee, the analyses of Lee are indeed models. The Examiner also submits that Thearling discloses the

campaign manager automatically selects the order of the models for analysis (see figure 11 and column 13, lines 38-41).

Applicant also argues that the score in Thearling is not assigned to the results of the marketing campaign. The Examiner disagrees and submits that Thearling discloses scoring the model used to analyzed the campaign, thereby scoring the campaign (i.e., likelihood a customer will provide repeat business, see column 9, lines 48-52).

With respect to claims 22, 23, 25, and 26, Applicant traverses the Official Notice and argues that the Examiner has failed to provide any support. The Examiner previously submitted Lazarus et al as discloses predicting consumer financial behavior, including an account statistics table for ranking prospects (see column 35, lines 49-55) and a credit risk score (see table 2). Further, Lazarus et al discloses a targeting engine 422, consumer summary file 404, merchant segment 416, and profiling engine 412, wherein the profiling engine 412 provides account profile and analytical data (figures 4a and 4b, column 31, lines 40-44). Further, Lazarus discloses a customer summary file 404, including a risk analysis score (table 1). As a result, Lazarus discloses various marketing and risk models, as those in claims 22, 23, 25, and 26. and 26.

Lastly, in response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But, as is the case here, so long as it takes into account only
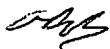
knowledge which was within the level of ordinary skill at the time the claimed

invention was made, and does not include knowledge gleaned only from the

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443

F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andre Boyce whose telephone number is (703) 305-

1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-

9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

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Should you have questions on access to the Private PAIR system, contact the

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